

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

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14. März 2005

HOFFMANN • EITLE, MÜNCHEN
PATENTANWÄLTE RECHTSANWÄLTENOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year)

11.03.2005

Applicant's or agent's file reference
101288 a/se

IMPORTANT NOTIFICATION

International application No.
PCT/EP 03/14242International filing date (day/month/year)
15.12.2003Priority date (day/month/year)
18.12.2002

Applicant

VIKTOR ACHTER GMBH & CO.KG

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 101288 a/se	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/14242	International filing date (<i>day/month/year</i>) 15.12.2003	Priority date (<i>day/month/year</i>) 18.12.2002
International Patent Classification (IPC) or both national classification and IPC D06M23/14		
Applicant VIKTOR ACHTER GMBH & CO.KG		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 1 sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>		
Date of submission of the demand 21.06.2004	Date of completion of this report 11.03.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Koegler-Hoffmann, S Telephone No. +49 89 2399-8611 	

INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

International application No. PCT/EP 03/14242

I. Basis of the report

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

Description, Pages

1-24 as originally filed

Claims, Numbers

6-33 as originally filed

1-5 received on 07.12.2004 with letter of 07.12.2004

Drawings, Sheets

1/2-2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/14242

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4-17,19-21,23-32
	No: Claims	1-3,18,22,33
Inventive step (IS)	Yes: Claims	
	No: Claims	1-33
Industrial applicability (IA)	Yes: Claims	1-33
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

- ✓ D1: PATENT ABSTRACTS OF JAPAN vol. 2002, no. 12, 12 December 2002 (2002-12-12) & JP 2002 227073 A (SEIREN CO LTD), 14 August 2002 (2002-08-14)
- ✓ D2: PATENT ABSTRACTS OF JAPAN vol. 1998, no. 01, 30 January 1998 (1998-01-30) & JP 09 256281 A (TORAY IND INC), 30 September 1997 (1997-09-30)
- ✓ D3: PATENT ABSTRACTS OF JAPAN vol. 1995, no. 01, 28 February 1995 (1995-02-28) & JP 06 296925 A (KOEI KOGEI KK), 25 October 1994 (1994-10-25)

2. The application addresses the problem of providing a process by which the abrasion resistance of a textile substrate can be improved.

The problem is solved by the process for the production of a textile product of independent claim 22 (claim 1).

3. Document D1 relates to a textile product having a three dimensional pattern. The textile has excellent abrasion resistance. The three dimensional pattern consists of polyurethane. Said textile product is used as interior material for motor vehicle.

Even though D1 does not disclose **explicitly** a three-dimensional pattern that covers at least 15% of the area of the textile substrate, it follows from the description of the computer translation of D1 (see annex) that one problem to be solved in D1 is to find a material with sufficient abrasion resistance (See D1: [0003] to [0004]). According to D1 said problem is solved. It must be therefore assumed that the textile product disclosed in D1 falls within the scope of the subject matter claimed in claim 1 of the current application.

Thus, the subject matter of claims 1 to 3, 18, 22 and 33 seems not to fulfil the requirements of Articles 33(2) and/or 33(3) PCT.

The other dependent claims contain features which are either obvious or known in the art

(see D2, D3). Thus, none of the claims fulfil the requirements of Article 33(3) PCT.

4. Further objections:

4.1. The applicant has deleted the following feature in claim 1: "a textile substrate having a certain abrasion resistance".

This feature is presented as essential in the disclosure of the application in the light of the technical problem which it seeks to solve.

Thus, the deletion of this feature introduces subject-matter which extends beyond the content of the application as filed, contrary to Article 19(2)/Article 34(2)(b) PCT.

4.2 It follows from page 7, paragraph 4 ff that the textile substrate which is treated in accordance with the invention has to have some criteria as mentioned under a), b) and c). It is clear that these features are essential to the definition of the invention.

Since independent claims 1 and 22 do not contain these features they do not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

4.3 According to the letter of the applicant dated 7.12.2004 it is emphasized that not any application of a resin on a fabric increases the abrasion resistance. This is only achieved if the textile substrate, the coverage and the chemical nature of the three-dimensional pattern are selected appropriately. Since neither claim 1 nor claim 22 contain said feature (definition of an appropriate selection) they do not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

4.4 Reference is made to page 22, paragraph 3. It is not clear what is meant by the sentence: "Further, the invention provides products the abrasion resistance of which is not necessarily improved by the three-dimensional pattern which have however...".

It seems that the claims are not supported by the description as required by Article 6 PCT.